Previous references.

1903.01.

(Costs)

File No. 16/03-01

Serial Nos. 1 to 3

Later references.

Serial 4 ends of this file

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 3

Part B. for

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by Sol. SUBJECT.

Suit to recover Rs 100/- due by the Executive Engineer, Tuticorin to one Muthumalachari to one Muthuveerappaswamy who died intestate at Sivagiripatnam.

Solicitor's instructions for the recovery of the amount of Rs 100/- from the Executive Engineer, Tuticorin due to one Muthuveerappaswamy who died intestate at Sivagiripatnam the plaintiff having failed to produce his succession certificate as stated in letter

G. R. S. 58

Dated with reference to the above, that one Muthumalachari has obtained succession certificate to the estate of the deceased vide Solicitor's instructions whether the said proceedings and the document enclosed to Govt. may be returned to the Solicitor

.3 In the Dist Magte Mupare. Other Dist Magte of Pol ce

1157. 1160 2 D18-17-03

With reference to QC 172 direct that the proceeds in the sale proceeds may be delivered to the Khasmahal Agent as observed that the disposal of the unclaimed property by the Dist Magte is irregular as under Govt order 296-304 dated 31st July 03 as modified by Judicial Govt no: 886-31 27-7-1874 Dist, Magistrates alone are empowered to make orders as to the disposal of unclaimed property and that any delegation of such authority to subordinate Magte, is invalid

File: 16 of 03

Office of the Dewan of Mysore.

File No. (if any)

Directions.

No., date and purport of receipts to be entered in red, and office note in black ink in order of dates.—To be written only on one side, and inside the line of margin.

Office Note.

Branch judicial

Subject Recovery of Rs 100 due from Mr. Sreenivasaiengar & Mr. Thirumalachar to the late Thirumalamma who died intestate at Seringapatam on March 15th 1902.

Letter No 237 dated 30th Oct. 1902 from the Dt Magte. Mysore Dt.

The Dt Magte states that Rs 100 is due from Mr. Sreenivasaiengar and Mr. Thirumalachar to the estate of one Thirumalamma whose property has escheated to Govt as she died intestate & without heirs. He requests to be authorized to take legal steps to recover the amount and to be provided with the necessary funds to meet the cost of the suit.

Submitted for orders with a draft.

9/11/03

In a suit by Govt claiming by escheat, Govt

must make out affirmatively that there are no heirs. [redacted]

[Mayne, p. 777, quoting from Moore's Indian Appeals & other decided cases.]

It is not clear whether the Dy Com[r] has satisfied himself that he can do this.* But perhaps the fact that no one came forward to claim the moveables of the deceased, & that the only persons who claimed to be her heirs as regards the deft one on the bond failed to substantiate their assertion, may be taken as presumptive evidence in favour of [illegible]

The dep[t] may be appd.

10.11.03

It is hard[ly] worth the while of pltf[s] to file a suit to recover 100 Rs. It is just possible that an heir may turn up not in any hope. I would suggest that the Distt Magte may submit a notice on the pltf[s] calling upon any heirs to appear within a fixed period & make good their claim.

[illegible]

16/11/3

14177
21.11.03

* Those are the essentials of the bond, against whom it is proposed to proceed by suit.

to estate of the deceased and has applied for delivery of the document and other property to him on the strength of the certificate. He requests that as the prescribed time of 6 months has already elapsed since the issue of the proclamation and orders have been passed to the effect that the property should escheat to Govt. ~~and no claim has been preferred~~ instruction may be given as to whether the sale proceeds of the articles already sold and the document referred to may be handed over to the claimant. An abstract of the application is also submitted for orders.

A

The proclamation is signed by the Sub Divisional Magistrate on 27.3.02 mentioning the pro-note also. But as the District Magistrate alone has the power to issue a proclamation under Public Rule No 19(6), it is doubtful if the proclamation of the Sub Magistrate would be legally effective. ~~for the purpose of escheat.~~ Even if it were so, the rule says that the proceeds of sale shall ~~be~~ but not the bonds shall be at the disposal of Govt,

B. Vide also Tribunal Order No 27 dated 3/1/02 in which it was held that a Sub Magistrate cannot act under Rule 19.

Under S. 16 of the Succ[n] Certificate Regn, a certificate thereunder is ~~only~~ not conclusive except as against the person owning the debt specified in it. Thangam, therefore, the Govt. (not being the debtor, but a claimant under the pro-note), is not necessarily bound by the certificate, still as Thirumalingar appears to be the sister of the husband of the deceased Thiruvengadamma & therefore a better heir than Govt. (claiming by escheat), it seems ~~advisable~~ preferable to hand over the pro-note as well as the proceeds of the articles already sold, to Thirumalingar.

Vide statement at head of the Succ[n] Certificate.

To prevent doubt as to the requirements of Rule (9) (a) the Govt. may be informed that action thereunder must be taken by themselves & cannot be done by a delegated to subdr. Magts.

Plus order. Draft ~~copy~~ submitted for approval

30/11/13

30/11/13

26/11/13

I agree. The

My Lords on behalf of the
Govt could have entered
Into a enquiry as to application
But he did not do so. Restitution
may be ordered as
suggested by the Secretariat
The Rule Dr officer had
no locus standi to
the abstraction proposed
therefore I agree -

1/12/03

14423
1442.03

Rec No 26/03 ac

1903

From M K Narasimhaiyangar Esqr Bar-at-Law
the District Magistrate
Kolar

To H V Nanjundayya Esqr
M.A. M.L.
Secretary to the Govt
of Mysore, Ext Rev Depart
Bangalore

Dated 30 9
Despatched October 1903-
Received

General No. 237
No.

Enclosure No. one file -

Soliciting instructions re the recovery of the amount of Rs 100/- from M. C. Srinivasaiyangar and M.C. Thirumalachar due to one Thimmayya adamma who died intestate at Seringapatam.

Submitted.

MGOPB—50 forms—6-12-02.

2

No 2237
Con file

District Magistrate's office
Mysore
Dated Mysore 30th October 1903

8

H. V. Nanjundayya Esqr. M.A. M.L.,
Secretary to the Govt: of Mysore
General and Rev Departments

Sir,

I am submitting herewith a file of correspondence ending with No. 1st 228 dated the 2nd September 1903, received from the Sub Division Magistrate of Seringapatam, I have the honor to state that one Thiruvengadamma by name, died intestate at Seringapatam on the 5th March 1902, leaving certain moveable property and two documents executed in her favour.

2 Measures were adopted by the Sub Division Magistrate under the Police rules for the disposal of the property of the deceased. The moveable property has been sold and kept under deposit and

deck of Rupees 15/- due to the deceased under one of the documents referred to has also been recovered and kept in deposit to be credited to Government under the law of escheat.

3. The other document is a promissory note for 100/- Rupees executed by M.G. Srinivasiengar and M.G. Dhanumacharyar jointly on 5th August 1901, payable three months after date. Notices were served on these persons and they stated before the Amildar Magistrate of Seringapatam that they were the heirs of the deceased and would produce an heirship certificate to that effect within a period of two months. They have failed to do so.

4. The Sub Division Magistrate proposes that a suit should be filed against them and seeks instructions as to the payment of the Costs of the suit. It is reported that the initial cost irrespective of the fees to the Counsel would

4

amount to Rs 12/-

5. I request therefore that Government may be pleased to authorize me to take legal steps for the recovery of the amount of Rs 100/- with interest and provide me with the necessary funds towards the Cost of the suit, if they deem fit to do so.

I have the honor to be,

Sir,

Your most obedient servant

[illegible]

District Magistrate

Mysore

File no: 1698 03 04 89 2

1801

23.11.03

1903 - 1904.

24-11-03.

From

B. K. Venkatāvaradaiengar Esqre
Deputy Commissioner of
the Chupoor District

To

H.V. Nanjundayya Esqre
B.A., B.L.,
Secretary to the Govern-
-ment of Chupoor

Dated 19
Despatched 20th } November 03
Received

General No. 283
No.

Enclosure No. Nil

Reporting upon the
pro-note left by one
Sirivengadamma.

— : —

Sd/ [illegible]
25/11/03

Submitted to Court
[illegible]

Mysore Dy Comr's office
Dated 19th November 1903.

No.

N. V. Narsimhaiyya Esq: M.A, M.L.
Secretary to the Government
in the General & Rev: Departts.
of Mysore,

Sir,

Referring to this office letter
No. 93/ dated the 30th October 1903, re-
garding the action to be taken in the
matter of a forged note left by one
Thimmegadamma of Gemmegapatam
who died intestate, I have the honor
to report that one Thimmalingaru
has obtained an heirship certificate
to the estate of the deceased and
has applied to this office for de-
livery of the documents and other
properties to him on the strength
of the certificate.

But as the prescribed time
of 6 months has already elapsed
since the issue of the proclama-
tion, and orders have been passed
to the effect that the property
should escheat to Government,
I solicit the orders of Government
as to whether the sale proceeds of
the articles already sold and

document referred to, may be handed over to the claimant.

3. The application and its enclosures are herewith submitted for perusal.

I have the honor to be,
Sir,
Your most obdt: Servt:

Deputy Commissioner
& District Magistrate
of the Mysore District

VB

8

Abstract of the applⁿ.

On the 15th October 1903 I applied (with the heirship certificate obtained by me) to the Taluk Cutchery at Venugopalam to obtain possession of money and promissory notes etc. belonging to one Devasikhamani Thiruvengadamma who died at Venugopalam in 1901, which were kept in the Taluk Cutchery as unclaimed property, but I was told that the records connected therewith were forwarded to the Dist. I therefore addressed two Petitions to you, on the 20th October & 6th November 1903 respectively but no reply has been given. I hear that the promissory notes will be barred by limitation shortly and so I beg that the promissory notes & money may be handed over to me. I enclose the certificate obtained by me.

File No. 603-04 No. 3 9

Read:—

Correspondence ending with letter No. 283 dated 19th November 1903 from the Dy. Commr. Mayurbhanj requesting instructions regarding the disposal of certain property belonging to one Dimenga Damma who died intestate at Serinigapatam on the 15th March 1902, which has been staked by the Sub Dy. Magte of French Rocks as unclaimed property, but which is now claimed by a one Dhenmalien (or), who has obtained an heirship certificate to the estate of the deceased.

Order

Order Nisi:-

As it appears
to the Sheristadar,
claiming to be the
husband & the
sister of the deceased
Kempadamma, has
claimed a Succession
Certificate from the
Subordinate Judge,
in respect of
the effects of the ~~said~~ deceased,
~~Kempadamma~~, Govt
pleased to direct
that the pro-notes
referred to in the above,
as well as the sale
proceeds of the articles
already sold, be delivered
to Sheristadar.

In the present case
the proceedings & connected
with the disposal of the
claimed property were
taken by the Sub Magistrate of Tenkasi.
was irregular, because
already pointed out
Govt Order No 296-304-J
dated 31st July 1903, Rule
3 of the Regular Police Rules
as modified by the Judicial
Commissioners Circular

No

No 886-31 dated 4th July 1874,) empowers the Magte of the Dt alone to make orders as to the disposal of unclaimed property and he cannot delegate his powers to any Magte Subordinate to him.

Ulld
2.XII.03

30/11/03

4/12/03

Leeuwdam

To The Dy. Comr. &
Dt Magte Mysore &
Copy to the Dt Magte for info
& guidance
" - The Asst Supt of Police.

No 1160-7 dt 4/12/03

Typed.
5/12/03

Proceedings of the Government of His Highness the Maharaja of Mysore, Judicial, dated 31st July 1903.

READ—

Letter No. 14-2, dated 6th July 1903, from the District Magistrate, Shimoga, requesting instructions as to whether a Sub-Division Magistrate is competent to order the disposal of unclaimed properties seized by the Police under Section 24 of the Police Rules in his Sub-Division, and whether the power vested in the Magistrate of the District under the said section can be delegated by him to the Sub-Division Magistrate within his Sub-Division.

No. 296-304—J., DATED BANGALORE, 31ST JULY 1903.

ORDER THEREON—The District Magistrate is informed that section 19 of the Regular Police Rules as modified by the Judicial Commissioner's Circular No. 886-31, dated 9th July 1874, empowers the Magistrate of the District *alone* to make orders as to the disposal of unclaimed property, and that he cannot delegate this power to any Magistrate subordinate to him.

H. V. NANJUNDAYYA,
Secy. to Govt., Gen. & Rev. Depts.

To—The District Magistrate of Shimoga.
The District Magistrates of other Districts for information.
The Inspector General of Police in Mysore.

Exd.—C.V.

1903-04

GOVERNMENT OF MYSORE

JUDICIAL

PROCEEDINGS

Dated 31st July 1903

No. 296-304 J.

Observing that the District Magistrate alone is empowered to make orders as to the disposal of unclaimed property and that he cannot delegate this power to any Magistrate subordinate to him.

SBP—12-8-03—200

1903-04

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

JUDICIAL

PROCEEDINGS

Dated 8th December 1903

No. 1159—J.

Directing the delivery to one Tirumaliengar of certain property belonging to one Tiruvengadamma, who died intestate at Seringapatam, and observing that under Rule 19 of the Regular Police Rules, the District Magistrate *alone* has power to make orders as to the disposal of unclaimed property and that he cannot delegate this power to any Magistrate subordinate to him.

SBP—15-12-03—200

Proceedings of the Government of His Highness the Maharaja of Mysore, Judicial, dated 8th December 1903.

READ—

Correspondence ending with letter No. 283, dated 19th November 1903, from the Deputy Commissioner, Mysore District, requesting instructions regarding the disposal of certain property belonging to one Tiruvengadamma, who died intestate at Seringapatam on the 15th March 1902, which has been seized by the Sub-Division Magistrate of French Rocks as unclaimed property, but which is now claimed by one Tirumaliengar, who has obtained an heirship certificate to the estate of the deceased.

No. 1159—J., DATED BANGALORE, 8TH DECEMBER 1903.

ORDER THEREON.—As it appears that one Tirumaliengar, claiming to be the brother of the husband of the deceased Tiruvengadamma, has obtained a succession certificate from the Subordinate Judge's Court, Mysore, in respect of the effects of the deceased, Government are pleased to direct that the pro-notes referred to in the above, as well as the sale proceeds of the articles already sold, be delivered to Tirumaliengar.

2. In the present case the proceedings connected with the disposal of the unclaimed property were taken by the Sub-Division Magistrate of French Rocks. This was irregular, because, as already pointed out in Government Order No. 296-304—J., dated 31st July 1903, Rule 19 of the Regular Police Rules (as modified by the Judicial Commissioner's Circular No. 886-31, dated 9th July 1874,) empowers the Magistrate of the District alone to make orders as to the disposal of unclaimed property and he cannot delegate this power to any Magistrate subordinate to him.

H. V. NANJUNDAYYA,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner and District Magistrate, Mysore District.

No. 1160-7—J., dated 8th December 1903.
- Copy to other Deputy Commissioners and District Magistrates for information and guidance.
- Copy to the Inspector General of Police in Mysore.

Exd.—C.R.

Regular Police Rule No. 19(6)

"(6) In all cases he will issue a proclamation specifying the articles of which it consists, and requiring any person who has a claim thereto to appear and establish his right to the same within six months from the date of such proclamation. If no person shall, within the period allowed, claim such property, it may be sold under the orders of the Magistrate of the District and the proceeds shall be at the disposal of Government."